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Memorandum

Showing Proposed Changes in Draft Legislation Submitted by the Legal Sub-committee after Consultation with Counsel.

June 1st, 1923.

MEMORANDUM SHOWING PROPOSED CHANGES IN DRAFT LEGISLATION SUBMITTED BY THE LEGAL SUB-COMMITTEE AFTER CONSULTATION WITH COUNSEL.

DOMINION ACT:

(1) Section 2, sub-section (c).

Add the words "*preaching station*" after the word "congregation" in the second line.

(2) Section 2, sub-section (e).

Omit the words "The managers of the Ministers', Widows' and Orphans' Fund of the Synod of the Presbyterian Church of Canada in connection with the Church of Scotland."

(3) Section 7, to read as follows:

"7. The rights of the several congregations named in Schedule "D" to this Act in regard to their respective properties therein set out, or, with the approval of the Presbytery within whose bounds such property is situate, of any congregation hereafter received into the United Church in regard to any real or personal property belonging to or held by or in trust for or to the use of such congregation, solely for its own benefit, shall not be subject to the provisions of sections four and five hereof, or to the control of the United Church, unless and until any such congregation shall *by a majority of the votes cast or taken (by ballot or otherwise) of the persons who are in full membership and whose names are on the roll of the Church*, consent that such provisions shall apply to any such property, or to a specific part thereof."

(4) Section 9.

Strike out the whole of the first sentence down to the word "churches" in the seventh line and substitute the following: "Provided always that if any congregation in connection or communion with any of the negotiating churches shall, within six months after the passing of this Act, decide by a majority of the votes cast or taken (by ballot or otherwise) of the persons who are in full membership and whose names are on the roll of the church, not to concur in the said union of the said churches."

Section 9 will then read as follows:

"9. Provided always that if any congregation in connection or communion with any of the negotiating churches shall *within six months after the passing of this Act, decide by a majority of the votes cast or taken (by ballot or otherwise) of the persons who are in full membership and whose names are on the roll of the Church*, not to concur in the said union of the said churches, but to withdraw therefrom, then and in such case the property, real and personal, belonging to or held in trust for, or to the use of, such congregation shall remain unaffected by this Act, and the congregation shall also be entitled as one of the non-concurring congregations therein named, but subject to the

provisions thereof, to the benefit of the provisions contained in the next succeeding section of this Act. Should such congregation so decide at any later time to enter into the union and become part of the United Church, then this Act shall apply to the congregation and all the property thereof from the date of such decision."

(5) Section 10, sub-section (b).

Add, after the word "congregations" in the fourth line the words "at a conference of representatives thereof," and add at the conclusion of the first sentence the following, "the names of such persons shall be submitted to the Chief Justice of Canada and if he is satisfied after making such inquiry as he deems proper or desirable that they fairly represent the parties so appointing them, their names shall be approved by him in writing and they shall thereupon be deemed for all purposes to be duly appointed."

The first part of this section will then read as follows:

"(b) All the equities (if any) of the non-concurring congregations or any of them, under this section shall be determined exclusively by a Commission to consist of nine members, of whom three shall be appointed by the non-concurring congregations *at a conference of representatives thereof*, three by the United Church from its members, and the remaining three by the six members so appointed. *The names of such persons shall be submitted to the Chief Justice of Canada and if he is satisfied after making such inquiry as he deems proper or desirable that they fairly represent the parties so appointing them, their names shall be approved by him in writing and they shall thereupon be deemed for all purposes to be duly appointed.*"

There will be no change in the remainder of the section.

(6) Section 10, sub-section (k).

The new sub-section recommended by the Methodist General Conference adopted by the Union Committee should be amended by striking out the words "or corresponding courts of Newfoundland and Bermuda" to read as follows:

"(k) *Any determination, decision or order made by the Commission may be made a rule, order or decree of the Exchequer Court or any Superior Court of any Province of Canada, and shall be enforced in like manner as any rule, order or decree of such Court. To make such determination, decision or order, a rule, order or decree of any such Court the usual practice and procedure of the Court in such matters may be followed, and a copy of any such determination, decision or order, certified under the hand of the Chairman or Acting Chairman of the Commission, and verified by affidavit or statutory declaration of a witness thereto, shall be sufficient evidence of the due making and validity of any such determination, decision or order.*"

The foregoing provision should be referred to the sub-committee on Law and Legislation of the Joint Union Committee for further consideration.

(7) Section 13.

Strike out the words "with this Act" in line 4 at page 10, and substitute the words "*at any meeting held pursuant to the provisions of section 20 of this Act.*"

(8) The Act to be amended by the insertion of a new section 26 as follows:

"26. Notwithstanding anything in this Act contained, it is hereby declared: *Spiritual Independence*

"(a) That the said union of the negotiating Churches has been formed by the free and independent action of the said churches through their governing bodies and in accordance with their respective constitutions, and that this Act has been passed at the request of the said Churches in order to incorporate the United Church and to make necessary provision with respect to the property of the negotiating churches and the other matters dealt with by this Act.

"(b) That nothing in this Act contained shall be deemed to limit the independent and exclusive right and power of the United Church to legislate in all matters concerning its doctrine, worship, discipline and government, including therein the right and power from time to time to frame, adopt, alter, change, add to or modify its laws, subordinate standards and formulas and to determine and declare the same or any of them, but subject to the conditions and safeguards in that behalf contained in the basis of Union."

(9) Section *26* to be numbered *27*.

(10) Corresponding changes to be made in all Provincial Legislation.

1st June, 1923.

The United Church of Canada

See MRW.

Dec. 23: 1025.

Also Sept. 1923 issue